

FTB Notice 90-2
410:CCC:AN-89-616

Re: Michigan Single Business Tax - Deductibility

The State of Michigan imposes a tax known as the "Single Business Tax" (MSBT) on all corporations for the privilege of doing business in the State of Michigan. The starting point for computing the MSBT is federal taxable income. However, employee compensation is added back to federal taxable income to compute the MSBT adjusted tax base. In some cases, such as for manufacturing or mining concerns, the employee compensation add-back for computing the MSBT adjusted tax base may include "Labor-Cost of Goods Sold (L-COGS)", as defined in IRS Treasury Regulation § 1.471-11, which is generally deductible in computing federal gross income.

Revenue and Taxation Code § 24345 allows a deduction for taxes paid or accrued during the year. Section 24345(b)(2) disallows a deduction for taxes on or measured by income imposed by another state. To the extent that the MSBT is imposed on or measured by income, it is nondeductible. To the extent that the MSBT is imposed on L-COGS, it is deductible. The deductible portion of the MSBT, if any, is the difference between the MSBT as reported and the MSBT as recomputed after subtracting the L-COGS from the tax base, and where applicable a recomputation of the reductions to Adjusted Tax Base.

To the extent that Michigan allows a reduction in the MSBT base, such as for compensation or a gross receipts limitation, or a small business credit, such reductions or credits are deemed reductions of the amount of the L-COGS in the MSBT base. As such they operate to reduce the deductible MSBT for California purposes.

The deductible portion of the MSBT is determined as follows:

1. A taxpayer must subtract the L-COGS, reduced, if necessary, by the compensation reduction or gross receipts reduction (line 21 of the MSBT return) divided by the Michigan apportionment percentage, from the MSBT tax base and recompute the MSBT, including reductions to Adjusted Tax Base on line 21. The result is the amount attributable only to a tax on income and not on L-COGS. The remainder of the MSBT is deductible for California purposes.
2. In situations where the revised compensation or gross receipts reduction (line 21 divided by Michigan apportionment percentage) is greater than or equal to L-COGS, the tax levied on L-COGS is zero. Therefore, no portion of the MSBT is deductible.

For ease of processing by the Franchise Tax Board, taxpayers should attach a schedule showing this computation to the appropriate year's California franchise or income tax return when filed.

Computation of L-COGS Subject to MSBT Where Tax Base Includes Compensation or Gross Receipts Reduction.

- | | | |
|----|---|---------|
| 1. | Compensation/Gross Receipts Reduction
(MSBT Form C8000, line 21) | \$_____ |
| 2. | Michigan Apportionment Percentage
(MSBT Form C-8000H, line 17 or 20) | _____% |
| 3. | Grossed-up Reduction (Divide line 1 by line 2) | \$_____ |
| 4. | L-COGS | \$_____ |
| 5. | Less: Grossed-up Reduction (from line 3) | \$_____ |
| | L-COGS Subject to MSBT (see paragraph below) | \$_____ |

Subtract this amount from line 8 of MSBT Form C-8000 and recompute the MSBT, including reductions to Adjusted Tax Base on line 21, using the revised line 8 amount. The difference between the MSBT at line 28 as recomputed, and the MSBT as reported is the amount of MSBT levied on L-COGS. This difference is the MSBT which is deductible for California purposes.

DRAFTING INFORMATION

The principal author of this notice is Cody C. Cinnamon, Staff Counsel, Franchise Tax Board Legal Division. For further information regarding this notice, contact Ms. Cinnamon at P.O. Box 1468, Sacramento CA, 95812-1468.

NOTE:

Some earlier copies of this notice incorrectly showed the "grossed-up reduction" computation as "divide line 2 by line 1." As shown above, the compensation/gross receipts reduction is the numerator and the Michigan apportionment percentage (shown as a decimal) is the denominator in computing the grossed-up reduction.